



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC**

**Issued by the Department of Transportation
on the 29th day of April, 1999**

Served April 29, 1999

City Bird, S.A.

Violations of 49 U.S.C. 41708
and 14 CFR Part 217 and 250

CONSENT ORDER

This consent order concerns reporting delinquencies that constitute violations of 49 U.S.C. 41708 and the reporting requirements specified in Parts 217 and 250 of the Department's regulations (14 CFR Parts 217 and 250) by City Bird, S.A., a foreign carrier holding economic authority issued by the Department. This order directs City Bird to cease and desist from future violations and to pay compromise civil penalties.

The Department uses carriers' reports to monitor carrier fitness and ownership, to analyze the effects of air transportation industry policy initiatives, to allocate airport development funds, to forecast traffic, and to develop airport and airway traffic policy. A carrier's failure to file its reports prevents the Department from making fully informed decisions. Failure to file reports when they are due also constitutes a violation of both 49 U.S.C. 41708 and the Department's applicable regulations.

When City Bird was granted authority to operate to and from the United States it was informed of the reporting requirements of 14 CFR Part 217. Part 217 requires foreign air carriers to file segment and market information on scheduled, nonscheduled and charter operations to and from the United States. Information is reported to the Department on Schedule T-100(f). Part 250 requires City Bird to file reports on denied boardings. Also, City Bird was required to notify the Department's Office of Aviation Information (OAI) before inaugurating service. City Bird never contacted OAI and has failed to file reports as required from the time it started operations.

In mitigation, City Bird states that the absence of the required reports resulted from numerous personnel changes in both its Brussels headquarters as well as in its principal U.S. office. According to City Bird, it has now revised its internal

procedures to require that the information for such reports be transmitted on a timely basis from its headquarters to the carrier's principal U.S. office, which should prevent any recurrence of the carrier's late filing of these reports.¹

The Enforcement Office has carefully considered the information provided by City Bird but continues to believe that enforcement action is warranted. In this regard, the Enforcement Office and City Bird have reached a settlement of this matter. City Bird consents to the issuance of an order to cease and desist from future violations of 49 U.S.C. 41708 and Parts 217 and 250 of the Department's regulations and to the assessment of \$15,000 in compromise of potential civil penalties. Of this amount, \$7,500 is to be paid within 15 days of the issuance of this order. The remaining \$7,500 will be suspended for one year following the issuance of this order and shall be forgiven unless City Bird fails to comply with the payment provision of this order or commits other violations of 14 CFR Parts 217 and 250 during that one-year period. We believe that this compromise assessment is appropriate and serves the public interest. In light of all the circumstances, the terms of this order represent an adequate deterrence to future noncompliance with the Department's reporting requirements by City Bird, as well as by other air carriers and foreign air carriers similarly situated.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.15.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that City Bird, S.A. has violated 14 CFR Parts 217 and 250 by failing to file reports in a timely manner;
3. We find that by engaging in the conduct and violations described in ordering paragraph 2 above, City Bird, S.A. has also violated 49 U.S.C. 41708;
4. City Bird, S.A., and all other entities owned or controlled by or under common ownership with City Bird, S.A., and their successors and assignees, are ordered to cease and desist from violations of 49 U.S.C. 41708 and 14 CFR Parts 217 and 250;
5. City Bird, S.A. is assessed \$15,000 as a compromise of civil penalties that might otherwise be assessed for the violations described in paragraphs 2 and 3 above. Of this amount, City Bird shall pay \$7,500 within 15 days of the issuance of this order. The remaining \$7,500 shall be suspended for one year after the issuance of this order and shall be forgiven, unless City Bird violates this order's payment or cease and desist provisions, in which case the entire unpaid portion of the

¹ On December 10, 1998, City Bird filed the last of its delinquent reports.

\$15,000 penalty shall become due and payable immediately, and the carrier may be subject to further enforcement action; and

6. Payments shall be made by wire transfer through the Federal Reserve Communications System, commonly known as "Fed Wire," to the account of the U.S. Treasury. The wire transfers shall be executed in accordance with the instructions contained in the Attachment to this order. Failure to pay the compromise assessment as ordered will also subject City Bird, S.A. to the assessment of interest, penalty, and collection charges under the Debt Collection Act, and possible enforcement action for failure to comply with this order.

This order will become a final order of the Department 10 days after its service date unless a timely petition for review is filed or the Department takes review on its own motion.

BY:

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Deputy General Counsel

(SEAL)

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